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April 16, 2021

VIA ELECTRONIC MAIL

Gabrielle Clair
Case Manager to Judge George C. Hanks, Jr.
United States Courthouse
515 Rusk St., Room 5300
Houston, TX 77002

Re: Request for Pre-Motion Conference: Plaintiff's Leave to Amend Pleading
Gericare Medical Supply, Inc. v. J.L. Sadick, et al.
(Case No. 4:20-cv-2425)

Dear Ms. Clair:

Pursuant to Rule 6(B)(iv) of Judge Hanks' Court Procedures, please accept this letter as Plaintiff Gericare Medical Supply, Inc.'s ("Gericare") formal request to file a motion seeking leave to amend the Complaint in the above-referenced matter under Fed. R. Civ. P. 15(a)(2), and to hold a pre-motion conference relating to this request should the court feel it is necessary.

Gericare seeks to amend the complaint to add additional causes of action and new defendants. Of the new defendants, three proposed defendants were named as third-party defendants in the third party complaint that defendants J.L. Sadick and J.L. Sadick, P.C. (collectively "Sadick") filed on November 25, 2020 (Doc. No. 21). Third-party defendants Imitari Corp. ("Imitari") and Terry W. Barnes ("Barnes") answered the third party complaint *pro se* on Feb. 26, 2021 (Doc. No. 35), and Gregory A. Jones, Jr. ("Jones") filed his answer *pro se* on March 01, 2021 (Doc. No. 36).¹ The remaining proposed defendants are: (1) Cojones Capital, Inc., a New York Corporation directed and controlled by Jones and/or Barnes ("Cajones"); and (2) and Laura Romeo, an individual from Illinois ("Romeo"). A copy of the proposed amended Complaint and exhibits are attached in the following link given the size of the exhibits: <https://burr.sharefile.com/d-s57f21195c70c404ca8cf3a239fe7f7aa>.

¹ Gericare notes, however, that corporations "cannot appear *pro se* in federal court." *National Oilwell Varco, L.P. v. Elite Coil Tubing Sols., LLC*, No. CV H-13-0374, 2014 WL 12618088, at *1 (S.D. Tex. Apr. 30, 2014). Thus, Imitari Corp. must retain counsel in order to participate in these proceedings.

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By way of brief background, this lawsuit arises out of the tortious disappearance of more than \$1 Million Gericare was fraudulently induced to send Sadick in conjunction with Gericare's attempt to purchase what turned out to be non-existent Personal Protection Equipment ("PPE"). Defendants' wrongful actions have caused Gericare to suffer millions of dollars in damages.

As noted during the initial status conference in this case, Gericare was not aware of most facts relating to the fraudulent transaction, or the true identities of those involved therein when it filed the Complaint. As such, Gericare has engaged in extensive written discovery regarding these topics with Sadick, which on several occasions required Gericare to undertake good faith efforts to obtain complete discovery responses and responsive documents without involving the Court. Gericare has also issued more than 20 subpoenas to third parties and conducted additional investigation relating to information obtained through discovery in an effort to determine the facts surrounding the fraudulent transaction giving rise to this lawsuit as well as the identities of those involved therein. This investigation and extensive discovery efforts have resulted in the proposed amendment to the Complaint.

In advance of sending this letter, we conferred with Sadick and attempted to confer with third-party defendants Imitari, Barnes and Jones, sending emails to Barnes and Jones on April 9, 2021, at addresses they previously used to communicate with Gericare. Sadick's counsel consented to the proposed amendment. Failing to receive a response from Barnes or Jones, we sent follow-up emails on April 13, 2021, stating that we intended to advise the Court of their positions relating to the amendment on Friday, April 16, 2021, setting a deadline to respond of 5 p.m. CDT on April 15, 2021. We also called Barnes and Jones on April 14, 2021, at telephone numbers they previously used to communicate with Gericare, but were unable to reach them. As of the date of this letter, we have not been able to discuss the proposed amendment with either Barnes or Jones in writing or by phone.

In conclusion, we believe that good cause exists to allow the proposed amendment. We appreciate very much your time and attention to this matter. Please do not hesitate to let us know of any questions or comments at your convenience.

Very truly yours,



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